

EXHIBIT 33

1 UNITED STATES DISTRICT COURT
2 EASTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION

4 No. 5:16-cv-10444
IN RE: FLINT WATER CASES Hon. Judith E. Levy
5 Mag. Mona K. Majzoub

6 Elnora Carthan, et al.,

7 Plaintiffs,

8 vs.

Civil Action No.

9 5:16-cv-10444-JEL-MKM

10 Governor Rick Snyder,

et al.,

11 Defendants.

12

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15

HIGHLY CONFIDENTIAL
16 VIDEOTAPED DEPOSITION OF DAUGHERTY JOHNSON

17 VOLUME I

18 Tuesday, December 17, 2019

at 9:09 a.m.

19

20 Taken at: Butzel Long

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22 REPORTED BY: CAROL A. KIRK, RMR/CSR-9139

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17 ALSO PRESENT:

18 Jeff Gudme, Videographer

19 - - -

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1 foundation.

2 Q. What do you mean "no"? You didn't
3 have that understanding? That was --

4 A. I did not have that understanding,
5 no.

6 Q. Who was the person -- since you
7 didn't have the technical or engineering
8 expertise -- that would have made the decision
9 about whether or not to do the testing of the
10 water and the pipes before the system was turned
11 on to use the Flint River? Who in your
12 administration was the person with the technical
13 expertise for that?

14 A. That would have been Mike Glasgow.

15 MR. ZEINEH: Objection.

16 Q. Mike Glasgow? Is that what you
17 said?

18 MR. ZEINEH: I'm going to object
19 on form.

20 A. Yeah.

21 Q. Is that what you said? I just
22 need to make sure I heard your answer correctly,
23 sir. Was it Mike Glasgow?

24 A. That is -- yes.

1 MR. ZEINEH: I might need an
2 opportunity to make my objections,
3 please. I'll give you an opportunity to
4 ask your question. Let me object. He
5 can answer them and go forward, but give
6 me that platform at least.

7 MR. ROGERS: You're right, Ed. I
8 apologize.

9 MR. ZEINEH: Thank you.

10 MR. ROGERS: I should have given
11 you more time there.

12 BY MR. ROGERS:

13 Q. Is it also true, Mr. Johnson, that
14 before the Flint River water was used for the
15 water supply and the treatment plant was up and
16 running, that LAN, the city's consultant, had
17 recommended that corrosion control measures be
18 instituted? Was that true? Did they recommend
19 that?

20 A. That's my understanding, yes.

21 Q. Why wasn't that done?

22 A. We weren't required to do so.

23 Q. By whom?

24 A. By the DEQ.

1 Q. So, again, a recommendation by the
2 engineering consultant for corrosion control was
3 not done because it wasn't required by the MDEQ;
4 is that your testimony?

5 A. That is correct.

6 Q. Leading up to the time when the
7 water switchover was made in April 2014 from
8 Detroit water to Flint water, Mr. Glasgow had
9 serious concerns about starting up the plant and
10 beginning to pump Flint River water into the
11 pipes to the citizens of Flint; is that true?

12 MR. ZEINEH: Objection.

13 Q. Do you remember that?

14 MR. ZEINEH: Sorry. Objection;
15 form, foundation.

16 A. I remember that coming up, yes.

17 Q. In fact, he reported that in an
18 e-mail. He said -- that you were copied on. He
19 said, "If the plant is started up to use the
20 Flint River water, it will be against my
21 recommendation" or "I will not be in favor of
22 doing that."

23 MR. ZEINEH: Objection.

24 Q. Right?

1 MR. ZEINEH: Objection; form,
2 foundation.

3 A. I remember reading an e-mail to
4 that.

5 MR. ZEINEH: I apologize,
6 Mr. Johnson.

7 (Reporter admonishment.)

8 - - -

9 (Johnson Deposition Exhibit 86 marked.)

10 - - -

11 BY MR. ROGERS:

12 Q. Could you turn to Exhibit 86,
13 please, sir. We'll get the exact language. I
14 may have misquoted Mr. Glasgow's e-mail. So
15 let's get the exact language. 86.

16 So this is an e-mail from
17 Mr. Glasgow, who was the chief operations
18 officer for the water treatment plant, right,
19 sir?

20 A. Yes.

21 Q. And it's dated April 17, 2014.
22 It's on the Elmo now. I'm showing it.

23 MR. ROGERS: Is that coming
24 through okay, Jeff?

1 time -- we're referring to Mr. Jerry Ambrose,
2 right?

3 A. Correct.

4 Q. For some period of time
5 Mr. Ambrose served in the role as financial
6 manager for the city of Flint, true?

7 A. Yes.

8 Q. And then as of a certain point in
9 time, he actually became the emergency manager
10 for the city, too, right?

11 A. Correct.

12 Q. And isn't it true, Mr. Johnson,
13 that Mr. Ambrose overruled your recommendation
14 or your direction to your staff to get ready to
15 switch from the Flint River water back to
16 Detroit?

17 A. Yes, he did.

18 Q. And you weren't happy about that,
19 were you?

20 A. I was not.

21 Q. Is that the reason that you left
22 the employ of the city shortly thereafter in
23 April 2015, in part anyway?

24 A. That is certainly part of it.

1 Q. And the reason for that was you
2 were upset about the fact that Mr. Ambrose
3 overruled a direction that you gave to your
4 staff to get ready to switch from Flint River
5 water back to Detroit water, right?

6 MR. ZEINEH: Objection.

7 A. Yes.

8 MR. ZEINEH: Form, foundation.

9 Q. And you were angry about that,
10 right?

11 A. I was concerned about it, yes.

12 Q. And you left. You left your
13 employment with the city where you had been
14 employed for how long?

15 A. Twenty-four years.

16 Q. And --

17 A. Twenty-three years, something like
18 that, yes.

19 Q. To what percent or what extent was
20 that the reason that you left as opposed to
21 something else? Was that a major part of the
22 reason that you left?

23 A. Yes, it was.

24 Q. And at the time, sir -- and you

1 testified in the criminal hearing, I'll remind
2 you, but you believe that Flint had the money
3 available to pay for the water from Detroit at
4 that time, right? There was money available to
5 do that, right?

6 A. We could have charged more for the
7 service, yes.

8 Q. So it would have cost more, but
9 you thought the city of Flint had the financial
10 wherewithal to do that, to return to Detroit
11 water in February of 2015, right?

12 A. Yes.

13 Q. And you directed your staff to
14 make plans to do that, and you were overruled by
15 Mr. Ambrose, right?

16 A. Yes.

17 Q. And the decision was made by
18 Mr. Ambrose not to go to Detroit water to save
19 money; isn't that true?

20 A. Yes.

21 MR. KIM: Objection; foundation.

22 - - -

23 (Johnson Deposition Exhibit 87 marked.)

24 - - -

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14 CONTINUED VIDEOTAPED DEPOSITION OF
15 DAUGHERTY JOHNSON

16 VOLUME II

17 Wednesday, December 18, 2019
18 at 9:07 a.m.

19 Taken at: Butzel Long
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22 ALSO PRESENT:

23 Jeff Gudme, Videographer

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- - -

1 corrosion control equipment?

2 A. I don't believe it did, but ...

3 Q. Okay. If the use of

4 orthophosphates were to be used for

5 implementation of corrosion control at the

6 plant, would the equipment necessary to utilize

7 orthophosphates for that purpose have to be

8 included in the permit application?

9 A. That's my understanding of it,
10 yes.

11 Q. So the fact that corrosion control
12 equipment was not in the permit application
13 means that the DEQ authorized operations at the
14 facility without use of orthophosphates for
15 corrosion control?

16 MR. KIM: Objection; form.

17 A. That's my understanding, yes.

18 Q. Do you know what a bench scale jar
19 test is?

20 A. I could not explain it, no.

21 Q. Do you know whether bench scale
22 jar testing for TTHMs were performed at the
23 plant?

24 A. Yes, they were.

1 Q. Do you know when bench scale jar
2 testing was done for TTHMs?

3 A. As I recall, it was part of our --
4 the response plan when we had the TTHM
5 violation.

6 Q. Okay. So that was done at a
7 subsequent point in time?

8 A. That's my recollection, yes.

9 Q. All right. Now, when the plant
10 was first operational, did complaints come in
11 from city residents at a higher rate of
12 frequency than before the use of Flint River
13 water?

14 A. Yes.

15 Q. And those early complaints, what
16 types of issues did they relate to?

17 A. Discoloration and odor.

18 Q. Did anyone complain in those early
19 days about lead?

20 A. Not that I know of.

21 Q. What is the process by which
22 complaints with respect to water quality are
23 lodged with the city of Flint?

24 A. I don't know all the processes.

1 People would call the water plant or the water
2 distribution center.

3 Q. Okay. And are there individuals
4 at the water plant or the water distribution
5 center that have the responsibility to record
6 any incoming complaints?

7 A. Yes.

8 Q. Are those maintained in any kind
9 of log or official place where they're at least
10 kept?

11 A. I believe there's a log, yes.

12 Q. And did you review that log from
13 time to time?

14 A. I don't recall so.

15 MR. NOVAK: Take a five-minute
16 break.

17 THE VIDEOGRAPHER: We're going off
18 the record. The time is 3:07.

19 (Recess taken.)

20 THE VIDEOGRAPHER: Back on the
21 record at 3:14.

22 BY MR. NOVAK:

23 Q. Mr. Johnson, starting in the
24 January through March of 2015 period, you